

Davis (IL)	Kilpatrick	Price (NC)
DeFazio	Kind (WI)	Pryce (OH)
DeGette	Klecza	Quinn
Delahunt	Klink	Rahall
DeLauro	Kolbe	Rangel
Deutsch	Kucinich	Regula
Diaz-Balart	Kuykendall	Reyes
Dicks	LaFalce	Rivers
Dingell	Lampson	Rodriguez
Dixon	Lantos	Roemer
Doggett	Larson	Ros-Lehtinen
Dooley	LaTourette	Rothman
Doyle	Leach	Roybal-Allard
Edwards	Lee	Rush
Ehlers	Levin	Sabo
Etheridge	Lewis (GA)	Sanchez
Evans	LoBiondo	Sanders
Farr	Lofgren	Sandlin
Fattah	Lowe	Sawyer
Filner	Luther	Saxton
Foley	Maloney (CT)	Schakowsky
Forbes	Maloney (NY)	Scott
Ford	Markey	Serrano
Frank (MA)	Mascara	Shaw
Franks (NJ)	Matsui	Shays
Frelinghuysen	McCarthy (MO)	Sherman
Frost	McCarthy (NY)	Sherwood
Gallely	McCollum	Sisisky
Gedensson	McDermott	Slaughter
Gephardt	McGovern	Smith (NJ)
Gilman	McKinney	Smith (WA)
Gonzalez	McNulty	Snyder
Gordon	Meehan	Spratt
Green (TX)	Meek (FL)	Stabenow
Greenwood	Meeks (NY)	Stark
Gutierrez	Menendez	Strickland
Hall (OH)	Millender	Stupak
Hastings (FL)	McDonald	Tauscher
Hill (IN)	Miller, George	Thompson (CA)
Hilliard	Minge	Thompson (MS)
Hinchey	Mink	Thurman
Hinojosa	Moakley	Tierney
Hobson	Mollohan	Towns
Hoeffel	Moore	Turner
Holden	Moran (VA)	Udall (CO)
Holt	Morella	Udall (NM)
Hooley	Murtha	Upton
Houghton	Nadler	Velazquez
Hoyer	Napolitano	Visclosky
Inslee	Neal	Walsh
Jackson (IL)	Oberstar	Waters
Jackson-Lee	Obey	Watt (NC)
(TX)	Olver	Waxman
Jefferson	Ortiz	Weiner
Johnson (CT)	Pallone	Weldon (PA)
Johnson, E.B.	Pascarell	Wexler
Jones (OH)	Pastor	Wise
Kanjorski	Payne	Woolsey
Kaptur	Pelosi	Wu
Kelly	Pickett	Wynn
Kennedy	Pomeroy	
Kildee	Porter	

NOT VOTING—10

Engel	Lazio	Vento
Eshoo	McIntosh	Weygand
Gilchrest	Owens	
Johnson, Sam	Reynolds	

□ 1443

Messrs. ANDREWS, MOORE, FRANKS of New Jersey, and REGULA, Ms. SLAUGHTER, Ms. RIVERS, and Ms. DANNER changed their vote from "yea" to "nay."

Mr. LEWIS of California and Mr. ARCHER changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mrs. ROUKEMA. Mr. Speaker, on Rollcall No. 470 I inadvertently pressed the "yea" button. I intended to vote "nay."

PERSONAL EXPLANATION

Mr. OWENS. Mr. Speaker, this morning, I was unavoidably absent on a matter of critical importance and missed the following votes:

On the Journal (Rollcall No. 465), I would have voted "yea."

On H.R. 4810, (Rollcall No. 466), the veto override of the Marriage Penalty Act, introduced by the gentleman from Texas, Mr. ARCHER, I would have voted "nay."

On H.R. 4986 (Rollcall No. 467), Foreign Sales Corporation Repeal and Extraterritorial Income Exclusion Act of 2000, introduced by the gentleman from Texas, Mr. ARCHER, I would have voted "nay."

On H. Con. Res. 327 (Rollcall No. 469), honoring the service and sacrifice during periods of war by members of the U.S. Merchant Marine, introduced by the gentleman from California, Mr. KUYKENDALL, I would have voted "yea."

On H.R. 4205 (Rollcall No. 470), instructions to conferees on the Department of Defense authorization bill, offered by the gentleman from South Carolina, Mr. GRAHAM, I would have voted "nay."

MOTION TO INSTRUCT CONFEREES ON H.R. 4205, FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees on H.R. 4205.

The SPEAKER pro tempore (Mr. SIMPSON). The Clerk will report the motion.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4205 be instructed to agree to the provisions contained in title XV of the Senate amendment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Arkansas (Mr. HUTCHINSON) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

□ 1445

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), the minority leader of the House, to begin the debate on the motion to instruct on this most important vote on civil rights in this session of Congress.

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise in strong support of the Conyers motion, a motion that is in keeping with the best of our national traditions.

First, let me say that I am very glad that we are finally at long last having this debate, a debate that allows us to express our feelings, our passion on one of our most important and greatest priorities.

Yesterday, I stood outside of this marvelous building on the lawn just a few feet from our rotunda, and I listened to Judy Shepherd talk about the murder of her son Matthew. Judy Shepherd talked about the pain of losing a child to senseless violence and about

the ugly, horrible crimes that are committed against people simply because of who they are.

Matthew's mother called on our Congress to act. She called on all of us here to take a stand against hate, to renew a few simple principles into our laws, principles that say so much about who we are and what we believe.

This bill is critical in so many ways. It gives law enforcement officers at all levels of government the tools they need to deal with horrible acts of hate-based violence.

It sends a message to the world that crimes committed against people because of who they are, that these crimes are particularly evil, particularly offensive. It says that these crimes are committed, not just against individuals, not just against a single person, but against our very society, against America.

These crimes strike fear into the hearts of others because they are meant to intimidate, to harass, to menace. When an angry man, a troubled man shot up a Jewish community center in Los Angeles, wounding teachers and students in a place that was supposed to be a sanctuary of protection, the man said that he had shot at these children because he wanted to send a message. He wanted to send a wake-up call to America to kill Jews.

Today, with this bill, we reject that message in the most powerful, most forceful way that we can. Today, we as a society can say that we will do everything we can to protect people from these heinous acts, that we will not rest until America is free of this violence.

This bill honors the victims of hate crimes, and it recalls their memory. It honors the memory of James Byrd who was dragged to death behind the pickup truck because the killers did not like the color of his skin. It honors Matthew Shepherd who was beaten with the butt of a gun and tied to a fence post and left to die in freezing weather because he was gay. It honors Ricky Byrdsong, a former basketball coach at my alma mater, Northwestern, who was gunned down on the street because he was black. It honors not only those victims, not just the high profile crimes, it honors all the people whose lives have been scarred by these acts, the victims who do not always make the headlines.

The hate crimes that we do not hear about deserve our strong response today. So today, let us take a stand against violence. We are voting to dedicate our national resource, to bring the strongest laws that we have to bear against the most sinister thing that we know. The Conyers motion is the only motion that will strengthen our existing laws, that will strike a real blow against hate.

Let me say this is a bipartisan effort. There is nothing partisan in this effort today. Republicans and Democrats are joining together. This issue transcends politics. It challenges us to look into

ourselves, to search our humanity and pass a law that I guarantee my colleagues will go down in the history books.

Virtually every major accomplishment that we pass ever in the history of this body has been bipartisan. This law, like the Civil Rights Act of 1965, will be a bipartisan blow against hate and violence.

This is a great country. We are so wealthy. But our greatest moments are not when we produce material wealth. Our greatest moments are when we as a people manage in the face of horrible tragedy to rise up to come together to take a simple stand for basic decency.

Give us this motion. Give us this law. Bring America up, rising up against hatred and against violence.

Mr. CONYERS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip of the House.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for his leadership and others for their leadership on this. I commend the gentleman from Missouri (Mr. GEPHARDT), our leader, for his statement.

This motion and this proposition received a strong bipartisan vote in the United States Senate. It is time that it received the same kind of bipartisan support in this House.

Now, we understand that no act of Congress can ever outlaw bigoted thoughts. But we also understand that, when hateful thoughts turn into hateful deeds, the Congress must act and act decisively. That is why this legislation is so necessary.

Today, even though the rate of most violent crimes is decreasing, the number of hate crimes is still alarmingly high. The FBI reported that, over the course of 1 year alone, in 1997, more than 8,000 hate crimes were reported in this country. We have just heard examples of them from our leader.

We have seen houses of worship burn, small children attacked, men and women murdered, murdered for their religion, murdered because of their ethnicity, murdered because of their gender, murdered for a whole host of reasons. For every act we hear about, every assault that is reported, there are many that pass unnoticed.

In fact, in my congressional district, just this last week, I learned of a man who was beaten so severely in an attack that he lost seven of his teeth and was hospitalized as a result of the beating. The reason was the fact that he was gay.

But despite their frequency and the fact that these crimes are intended to terrorize millions of Americans, too many in the law enforcement field lack the legal authority it takes to investigate and to prosecute them. That is why this legislation is important. That is what this legislation does. It corrects that inadequacy.

We cannot outlaw hatred, Mr. Speaker. We have a moral responsibility to stand up for those who could be its victims.

So I urge each and every one of my colleagues today to support the Conyers motion, and let us give this the bipartisan support that it deserves, the bipartisan support that it received in the other body.

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in respectful opposition to the motion to instruct conferees. I think it is important to remember at this juncture that this provision is attached to the Defense authorization bill, and this is the Kennedy hate crimes legislation. It was not part of the House package. It was not considered in the House. I say that because I know that we do that in this body, where something is considered in the Senate, it is considered in the conference; but it certainly is something that has not been considered and debated in this body. I think that makes a difference as we consider this motion to instruct.

Let me first look at what this Kennedy amendment in the Defense authorization bill provides. It is the hate crimes amendment. It is what the motion to instruct binds this body to support in the conference. It, first of all, expands the protected groups to include gender, sexual orientation, or disability.

Now, what is important to remember is that we already have a Federal crime. There is a Federal crime to interfere with anyone's exercise of a federally protected activity. This could be voting, this could be traveling, interstate commerce, exercising any number of federally protected rights.

It is a Federal crime if those rights are interfered with because of race, because of color, because of religion or ethnicity. So that is the current state of the law. The Kennedy amendment would expand those protected rights to include other categories, as I mentioned, gender, sexual orientation, and disability.

The second point that needs to be made about the Kennedy amendment is that it makes it a Federal hate crime, and it creates the Federal hate crime and expands it without the requirement of a federally protected activity. This is a significant difference from the current law. What we need to remember is that this is a significant, substantial expansion of Federal jurisdiction over crime in our country.

It is not always wrong to expand Federal jurisdiction. As has been pointed out, we have done that from time to time in this body. But whenever we expand Federal jurisdiction, we should ask some basic questions. First of all, is this expansion constitutional? That is the responsibility we have. Secondly, if it is constitutional, is it necessary? Is there such a gap in the current law that this expansion is required? So we want to talk about those particular questions.

But before I do, I want to address what the minority leader spoke about,

how this conduct of targeting minority groups or special groups because of a certain characteristic is intolerable in our society; and I agree with that completely.

In fact, when I was a United States Attorney, I had the responsibility that I did not ask for of prosecuting a hate group. That group was known as The Covenant, the Sword and the Arm of the Lord. It was in northern Arkansas. It was in my district.

That group, led by James Ellison, had targeted homosexuals. It had targeted minorities from Jewish Americans to African Americans. They had blown up a Jewish synagogue in Missouri. They had killed a pawnshop owner in Texarkana, Arkansas, because they perceived that he was Jewish. It was clearly a hate group. It was a hate group that had violated the law.

I prosecuted that group. At the same time I prosecuted them, they had targeted my family for assassination. So I know something about hate groups. I certainly have not been the victim of racial discrimination; I would never say that. But I know about hate groups.

From that experience, I see how wrong they are for society. I see the poison they are for the new generation coming up. We should do everything in our society that is appropriate, that we can stand against this. We should speak out against it. We should express outrage by it and prosecute them to the fullest extent of the law.

I would personally love to be a prosecutor that would go from jurisdiction to jurisdiction prosecuting hate groups and those that engage in hate crimes. I think we have to do that.

So with that background, I want to say that targeting any group because of race, gender, sexual orientation, religion, or disability should not be tolerated in any civilized society. But it should most certainly not be tolerated in the freest country in the world, the United States of America.

But then we come back to the first question, and that is, is this expansion of Federal jurisdiction constitutional?

□ 1500

We are all aware of the warnings that have been given by the United States Supreme Court. We recall the Lopez decision, which arose out of our expansion of Federal criminal jurisdiction to guns being found in school zones and we said that ought to be a Federal crime. The United States Supreme Court said, but even these modern-era precedents which have expanded Congressional power under the Commerce clause, confirm that that power is subject to outer limits.

The court has warned that the scope of the interstate commerce power must be considered in the light of our dual system of government and may not be extended so as to embrace effects upon interstate commerce, and they continue to warn the Congress of the United States to be careful that we do

not effectually obliterate the distinction between what is national and what is local and create a completely centralized government. That is a warning by the United States Supreme Court.

They also said in another case, we are also familiar with, in *United States v. Morrison*, something I believe in, which is an expansion of the Violence Against Women Act, to create a civil cause of action for criminal conduct that was engaged in because of someone's gender, which allowed them to bring a civil lawsuit.

The court struck that law down, as well, and said, "The Constitution requires a distinction between what is truly national and what is truly local," obviously citing the *Lopez* case, "and recognizing this fact, we preserve one of the few principles that has been consistent since the clause was adopted, the regulation and punishment of intrastate violence that is not directed at the instrumentalities, channels, or goods involved in interstate commerce has always been the province of the States."

So clearly, we have some warnings from the Supreme Court. Is it constitutional? They have raised some questions about it.

The *Washington Post*, not exactly a conservative journal, editorialized and said, "rape, murder and assault, no matter what prejudice motivates the perpetrator, are presumptively local matters in which the Federal Government should intervene only when it has a pressing interest. The fact that hatred lurks behind a violent incident is not, in our view, an adequate Federal interest." A constitutional warning by the *Washington Post*.

So certainly there should be some questions about is this the right direction to go constitutionally. Secondly, even if we say that it is, is it necessary?

I would point out, and I am pleased with this, that our Federal sentencing guidelines, based upon the direction given by the United States Congress, they have enhanced the penalties for hate crimes, but they have done it after the conviction when it is appropriate to consider the targeting of a minority group as a factor in increasing penalties.

This is what the Federal sentencing guidelines says: "If the finder of fact at trial, the court at sentencing, determines beyond a reasonable doubt that the defendant intentionally selected any victim or any property as the object of the offense of conviction because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person, the penalty should be increased by three levels." And, as we all know, that is a significant increase in the amount of time that they would be incarcerated.

So the current state of the law is that the targeting of these special groups is a significant Federal factor in enhancing punishment. That is right.

That is appropriate. But that is a different scheme than making a special Federal statute that would give special protection to certain groups.

The second thing I would point out, is it necessary, is what are the States doing in the current prosecutorial scheme?

The minority leader mentioned the cries of the mother of Matthew Shepard, calling that this is not to be tolerated in our society and how we should honor the victims of violence. And we should honor them. But in Matthew Shepard's case, a homosexual college student, as my colleagues know, that was murdered in Laramie, Wyoming, it was a State court prosecution in which one the defendants pled guilty and got two consecutive life sentences. They might create a Federal hate crimes statute that they will not get any more than that. And the other could be facing the death penalty when it is tried in October.

Another one, the murder of James Byrd, a horrendous crime in Texas targeting an African American, it was a State prosecution in which the jury gave death by injection rather than life in prison. And so, it was the ultimate punishment that was meted out in this case under a State prosecution.

In Alabama there was a slaying of Billy Jack Gaither, who was beaten to death and then burned by kerosene-soaked tires. The men who murdered a homosexual over unwanted advances, that perpetrator will avoid the death penalty only because the family requested that the death penalty be waived. That was a State prosecution.

I could go on and on in which State prosecutions have been successful not in 40 years, not in 50 years, but in the maximum penalty in these particular cases.

True, and I am delighted, that in many of those instances Federal resources have been devoted to make sure that they were able to obtain the conviction of the perpetrator.

Finally, I would point out the testimony of a judge who testified in the Senate Committee on the Judiciary on this particular bill. In this case it was Judge Richard Arcara who testified in opposition to the hate crimes legislation; and he stated, "The issue is not whether we are for or against the prosecution of hate crimes. All decent, right-thinking people abhor hate crimes. The real issue before you is whether the acts of violence covered by the proposed statute, which are already criminal offenses under State law and which may already be Federal crimes as well, are not being adequately prosecuted and punished at the present time."

In other words, why is a new Federal statute needed?

And so again the question, is it constitutional; and secondly, if it is, is it necessary under the present circumstances?

The reason I bring these questions up is that my colleagues might conclude

ultimately after we debate this that the answer is yes, yes and we need to do this, but is the appropriate time to consider it in a conference report which is not being considered by the House?

In fact, we are instructing the conferees to go to this particular Kennedy proposal when in fact there is also the Hatch proposal. Senator HATCH offered a proposal that was adopted as well and it addresses hate crimes, but it does it in this way: it creates more funding for the States and their prosecution of hate crimes, so it gives more resources and grants to the States.

The second thing it does, in a very thoughtful way, is that it creates a study to examine the efficacy of the current law. Do we really need it? Is it necessary? And this is another approach.

So I would say, let us do not bind our conferees that they have to go a particular direction. There are other options that should be considered.

So, my fellow colleagues, I believe that there are some important questions that say let us do not adopt this binding motion to instruct our conferees.

Finally, I think there is an issue of fairness that troubles some people. Should certain groups in America when it comes to crimes of violence be entitled to greater resources in investigation and different laws in the prosecution than other groups? This is fundamental. It is difficult because we all know that there is a problem in our society when we target minority groups or groups that are targeted because of disability or any other reason. They should be punished to the full extent of the law, and we need to send a signal to our society that it is not tolerable. But there are ways to send that signal rather than considering a massive expansion of Federal jurisdiction.

My colleagues, these are serious issues and I do not believe the right place to approach it would be in the conference. We need to come back and sort through each of these, as the Supreme Court has directed.

So I would ask my colleagues to oppose the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, my friend from Arkansas (Mr. HUTCHINSON) mentioned the Laramie, Wyoming tragedy with Matthew Shepard.

Yesterday, here on the Hill, the police chief of Laramie, Wyoming, joined us in support of our hate crimes prevention act. He met with us yesterday.

I might point out that the National Sheriffs Association supports this motion to instruct and the International Association of Chiefs of Police supports this motion to instruct.

Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri (Mr. Skelton), the ranking member from the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the Conyers motion.

Our Nation has seen far too many cases of violent criminal acts related to prejudice, bigotry, and intolerance. Recently, the Federal Bureau of Investigation has reported a significant number of cases involving violence directed against a member of a religious, ethnic, disabled, race-based, or gender-specific association. Statistics show that nearly 8,000 such acts of violence have occurred annually since 1994.

Society cannot and should not tolerate the cowardly, mean-spirited, and hateful acts that we call hate crimes. Indeed, such hate-based acts have a deeper impact on society other than crimes. They are injurious to the community and are often committed by offenders affiliated with large, extended groups operating across State lines.

From my own observation, having been with numerous people who have, unfortunately, sustained physical disability, I have witnessed the ugly face of discrimination. I personally know the pain resulting from malicious acts and bigotry as it relates to disabilities. I wish to stress this point.

As a former State prosecuting attorney, I do not view this proposal lightly. Although the ability to prosecute crimes against individuals exists today, the Senate bill would provide prosecutors with more tools with which to fight crimes in which bias, prejudice, and discrimination are motivating factors.

I urge my colleagues to support the Conyers motion to instruct.

Mr. HUTCHINSON. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am delighted now to yield 2½ minutes to the gentleman from Virginia (Mr. SCOTT), the ranking subcommittee member that has handled this subject matter.

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I will be voting in favor of the advisory motion to the conferees on the Defense authorization bill, but I do so with some reservations.

I am in full support of legislation to punish hate crimes. Those crimes terrorize our community and they are different from other crimes, and they should be prosecuted vigorously and punished more severely.

However, as we enact hate crime legislation, we have to be careful to do so without impugning First Amendment freedoms and at the risk of skewing ordinary criminal penalties.

Hate crime provisions adopted by the Senate in its Defense authorization bill appear to allow evidence of mere membership in an organization and mere beliefs to be introduced in prosecutions for activities described in those provisions. We should have an amendment to prohibit the use of such evidence because allowing introduction of mere membership in an organization may be

highly prejudicial and inflammatory to the jury.

Recent reviews of death penalty cases have revealed that many defendants who are factually innocent are convicted anyway. Telling a jury that a defendant belongs to an unpopular organization only increases the chance that the jury will decide the case based on emotion rather than the evidence. Evidence of motivation behind the crime ought to include something in addition to mere membership in an organization or beliefs.

In addition to the constitutional, Mr. Speaker, the provisions of the bill apparently allow a person guilty of what would ordinarily be simple assault and battery to receive a 10-year sentence if they can prove the appropriate motivation.

Mr. Speaker, this motion to instruct conferees is aimed at a Defense authorization bill that will be considered not by the Committee on the Judiciary, which ordinarily considers constitutional and criminal law implications in a bill, if we had considered the provisions in the Committee on the Judiciary, we could have considered the appropriate amendments to deal with the admission of evidence and could have ensured that the provisions were more proportional for the crime committed.

To address these issues, I have sent a letter to the chairman of the Subcommittee on Crime asking that he immediately schedule a hearing on hate crime legislation so that we can consider these issues in an intelligent and thorough manner.

This is a very important piece of legislation. We need hate crime legislation, but it has to be done right.

I will be voting for the amendment, with those reservations.

□ 1515

Mr. HUTCHINSON. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), a distinguished member of the Committee on the Judiciary.

Ms. BALDWIN. Mr. Speaker, I rise in strong support of this motion. This provision would strengthen a Federal hate crimes statute that has been on the books for over 30 years. The 1968 law already covers hate crimes committed on the basis of race, religion, color, or national origin. This provision would add coverage for victims targeted for violence by virtue of their sexual orientation, gender, or disability.

We hear from opponents that every crime is a hate crime; that every act of violence is an act of hate, but since the founding of our country our judiciary system has weighed the element of intent in evaluating the severity of crime.

The thing that distinguishes hate crimes from other crimes is that hate crimes are intended to terrorize both the crime victim and the entire com-

munity that each victim represents. Wyoming is a long way from Wisconsin. Yet in the days and months that followed the murder of Matthew Shepard, I looked into many fear-filled faces and tear-filled eyes in my own community. These crimes do strike terror throughout the Nation.

Yesterday, I met Commander David O'Malley. He was the investigator in Laramie, Wyoming, and he came to Washington to support our passage of this motion. He said two things: one is that in starting out the investigation he really did not believe that hate crimes existed but, boy, did he learn during the course of his investigation that these are specific crimes, and he urged us to pass this motion.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

Mr. Speaker, hate crimes are just plain wrong. They are crimes against an individual committed by somebody principally or solely because of race, religion, sexual orientation. They are committed not against the individual so much as against a class of people, and they tear at the very fabric of our society because they do that.

I cannot think of a more heinous crime that deserves any greater punishment than a crime committed for that reason. That is why for a long time I have been a supporter of hate crimes legislation that is now before us in this fashion today and why I strongly urge my colleagues to support this effort to instruct conferees in the only way that we can achieve this goal of putting into law a Federal provision that is overdue and needed in this case.

I can say not only about the Matthew Shepards of the world but I can say about cases in my own State, a young woman named Jody Bailey just last year, 20 years old, an African American shot to death simply because of her race, because she was dating a white person, bullets pumped into her car and she was killed for that reason alone. A young girl 6 years old, Ashley Mance, killed because a skinhead thought it was her race and it was not against her but against her race that he shot her.

We had another case in my home State involving several teenage men who killed a man brutally simply because he made a pass at them. That is wrong. That is not right, and the Federal law needs to be guaranteeing that somebody is prosecuted and given extra punishment on top of the underlying crime and the underlying punishment if one commits a crime principally for that reason; just as we have laws that say if someone commits a crime with a gun they get extra punishment on top of their underlying sentence for the underlying crime because it was committed with a gun.

I support both. I think they are reasonable messages and necessary messages to be sent out there. Unfortunately, even though most States have hate crimes laws there are a few that do not, and in those States that do not have hate crime laws that enhance these punishments for crimes solely or principally because of race or religion or sexual orientation or gender or disability, I believe in those States that do not have them or in those States where they are there and some law enforcement officer for whatever reason chooses not to prosecute, Federal prosecutors should have that authority; and that is what this provision gives them.

That is what the Kennedy provision, the Conyers provision gives them, one I support strongly.

It also is true that this legislation provides money, a grant program, to help assist those law enforcement communities that do have their own hate crimes laws to enforce them. There should be a clear and unequivocal message sent to anybody out there remotely contemplating a crime because they hate somebody because of their race, their religion, their sexual orientation. If they commit such a crime, they are going to get punished for a very, very long time; and there is a special place for them in the Federal prisons if the States do not do it.

Mr. Speaker, I strongly support the legislation before us and the motion to instruct conferees, and I encourage all of my colleagues to support it.

Mr. HUTCHINSON. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), himself a prosecutor and member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, my friend, the gentleman from Arkansas (Mr. HUTCHINSON), asked, Is this legislation necessary? And he points to the murder of Matthew Shepard in Wyoming who died for no other reason other than he was gay, and to James Byrd in Texas who died for no reason than because he was black, and I would add Joseph Iletto of California who died for no other than reason other than he was Asian. Is there a need? I submit there is a clear need.

When such actions take place in other countries, when individuals are persecuted because of their identity, whether it be racial or religious, our law, the United States law, recognizes this is no ordinary crime and grants them a remedy. We entitle them to petition for asylum. Why would we do less to protect our own citizens from the very same crimes?

Is there a need? Yes, there is a need. Some have said we should not pass this law because hate crimes are a local matter. Well, I agree, and I know that the authors of this legislation, this motion, also agree. The vast majority of those crimes are investigated and prosecuted at the State and local level. In

this measure, if it is enacted, it will continue that same status quo. All this legislation will do is to ensure, when local authorities request assistance, or are unable or unwilling to act, Federal law enforcement agencies will have the ability to come to their aid. That is why the sheriffs of this country and the chiefs of police in this country support this legislation.

Support the motion.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA), a leader in the Violence Against Women Act.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding. I thank him for offering what is an important motion to instruct the conferees in the DOD bill.

This, of course, was a separate bill to begin with. We do not have time to try to pass a separate bill. It is critically important that this Congress indicate their belief that hate crimes will not be tolerated and we will use all of the resources available to make sure that that is the case.

Hate crimes are different from other crimes. For example, just think of the situation of Matthew Shepard, Tony Orr, Timothy Beauchamp, James Byrd, the Jewish Day Care Center in Los Angeles. They affect not only the victim but an entire community.

The House Committee on the Judiciary held hearings back in August. The need has been there. We are all Americans. We cannot tolerate bigotry or hate in any way at all, and it is very important that we do pass this motion to instruct the conferees and show that we are Americans and we do care about each other.

So I ask this body to support it.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY of New York. Mr. Speaker, I rise in strong support of this motion. We have waited much too long to strengthen hate crime laws. This motion will expand the definition to include crimes motivated by gender, sexual orientation, and disability among the list of crimes considered as hate crimes. If criminals are motivated by bias, then prosecutors should have the ability to seek a higher penalty.

I feel strongly about this because earlier this year over 50 women were beaten, surrounded, robbed, stripped in Central Park in my district. There is one thing all these victims had in common. They were from different countries, different ages, different races and religions but all of them were women. The mob went after these victims simply because they were women.

Hate crimes create a climate of fear that keep a particular class of people from participating fully in society. As Americans, we cannot let this stand. This motion also includes my bill, the

Hate Crimes Statistics Improvement Act, that requires the FBI to gather statistics about gender-based hate crimes as well.

This is an incredibly important motion. We must all support it. It is important.

Mr. HUTCHINSON. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from Indianapolis, Indiana (Ms. CARSON).

(Ms. CARSON asked and was given permission to revise and extend her remarks.)

Ms. CARSON. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) on his motion to instruct the conferees on H.R. 4205, urging us to adopt the Senate provisions on hate crimes, and I would certainly like to applaud those who have spoken in this effort prior to the time that I have been here.

Unfortunately, because leadership has had a strange hold on hate crimes legislation preventing its advancement in the House, I am questioning what it is that we are waiting for. I spoke at a vigil down the street at the Senate Park a couple of months ago on behalf of the family of Arthur Warren, AKA Jr., J.R., who was beaten by two 17-year-olds who had confessed to that first degree murder but a trial has not yet begun. Arthur was 26 years old. He was gay. He was beaten and ran over twice, several times, with an automobile and then taken across town and dumped out in the street.

This motion to instruct conferees is a vital effort, and if there is anything that this Congress should do prior to the adjournment, it would be to adopt the motion to instruct conferees of the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. LOWEY).

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, I rise in support of this motion to instruct conferees. The American people have waited far too long for the passage of comprehensive hate crimes legislation, and we have an important opportunity today to show our support for this initiative. Each day we hear stories of hate groups actively recruiting members in our communities, often masking their hatred with religion. These groups incite the enmity and violence which tear at the very fabric of our society. The good news is that some States, like New York, have finally responded decisively to the destructive forces of hate-based violence. The bad news is that Congress has consistently squandered the opportunities we have had to address this phenomenon, dragging our feet while senseless hatred destroys communities throughout the country.

It is past time to hear the cries and appeals of the victims of hate crimes

and their families. We need to pass a Federal hate crimes law and give law enforcement officers the tools they need to fight these crimes. We need to pass comprehensive gun safety legislation, to keep dangerous firearms out of the hands of people who will perpetrate hate-based violence. We need to invest in the education of our children to teach them by example to embrace the diversity of our society. We need to find a way within constitutional bounds to diminish the damaging effects of hate speech in our communities; and we need to do it now, before one more person among us has to mourn the loss of a loved one to a senseless hate crime. Inaction in the face of this tragic, dangerous trend is indefensible.

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to jump into this particular point in the debate. It is just amazing how much we agree upon. We are expressing outrage about hate crimes, and I tried to express that same outrage when I was a Federal prosecutor. I certainly have tried to express it in the United States Congress. I know that those in the State legislature and here in our national body we all are looking for ways to express our outrage of this. I think we are doing it fairly effectively. This debate is a means of doing that.

□ 1530

Mr. Speaker, there is really broad agreement, when we say it is intolerable in our society for someone just because they are African American or just because they are Jewish that they be targeted or just because of their sexual orientation. It is abhorrent in our society that they be targeted because of those characteristics, so we need to stand against this at every possible opportunity.

I think the debate, though, and really the sense of disagreement is whether we want to have a Federal concurrent jurisdiction for virtually all violent crime similar to the way we do it with our drug war.

Right now, if anyone has any drug offense, it can be brought into State court or Federal court, it is totally concurrent jurisdiction. And basically you are going to have a review of all violent crime to see if it was motivated by one of these biases that is referred to that covers a special category. If it was a perceived special category, and that is always going to be reviewed and as the gentleman from Virginia (Mr. SCOTT) appropriately made the expression of concern, that are we going to be examining everyone's thought. I think the gentleman says that we need to really look at this very carefully. He has some reservations about it.

The reservations that the gentleman raised are reservations that some on this side have as well. And as the minority leader said, it is not a partisan issue. It is really a question here of ap-

proach, and the direction that we are going to go in our Federal law enforcement.

And I just wanted to say that I agree with much of what is being said today, and the terrible in our society of crimes against particular groups. I think it is just simply a matter of a different approach that I would take, and we need to look at this very, very carefully.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I rise today in strong support of the Conyers motion to instruct conferees on the Defense Department authorization bill to recede to the Senate position and retain the inclusion on the Local Law Enforcement Enhancement Act, which is the Senate's version of H.R. 1028, the hate crimes legislation.

Now, I notice some people believe that hate is not an issue when prosecuting a crime. They say our laws already punish the criminal act and that our laws are strong enough. I answer with the most recent figures from 1998 when 7,755 hate crimes were reported in the United States.

According to the FBI, hate crimes are under reported, so the actual figure is much higher. And I say to my colleagues, penalties for committing a murder are increased if the murder happens during the commission of a crime. Murdering a police officer is considered first degree murder, even if there was not premeditation. Committing armed robbery carries a higher punishment than petty larceny.

There are degrees to crime and committing a crime against somebody because of their race, color, sex, sexual orientation, religion, and ethnicity or other groups should warrant a different penalty. These crimes are designed to send a message. We do not like your kind, and here is what we are going to do about it.

So why cannot we punish crimes motivated by hate differently than other crimes?

I believe we must stand up as a Congress and as a country to pass hate crimes legislation to make our laws tougher for the people who will carry out these heinous acts.

Mr. HUTCHINSON. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. HULSHOF), certainly his expertise as a State prosecutor is meaningful.

Mr. HULSHOF. Mr. Speaker, I thank the gentleman for yielding the time to me and certainly appreciate the tenor of the debate, especially hearing the experiences of my friend, the gentleman from Arkansas (Mr. HUTCHINSON) and his experiences as a Federal prosecutor.

Before coming to this body, I began my legal career as a court-appointed public defender, and one of the last cases I had the occasion to defend was

a murder case. My client was an African American who was facing the death penalty. Shortly, thereafter I switched sides in a courtroom and began prosecuting criminal cases and handled some 16 death penalty cases throughout the State of Missouri.

I have heard these very powerful testimonials from all Members, including my colleague, the gentleman from Missouri, who spoke at the beginning in favor of Mr. CONYERS' motion. I, too, have held the hands of family members who have been murdered, the mothers and wives as we waited for juries to return with their verdicts, and wondering whether or not the State's cases prevail and often they did.

But I agree also with the gentleman from Wisconsin. My experience has shown that all murder cases are hate crimes, and what I think we are attempting to do today is really legislate by headline. The fact that the tragedy that occurred to the Matthew Shephard family, the killers of Matthew Shephard deserve, in my estimation, the death penalty not because of who he is or what sexual preference he had, but because the facts fit the case.

The murder of James Byrd down in Texas that has been referred to, his killers, in my estimation, deserve justice throughout the death penalty, not because of who he was or the color of his skin, but because the facts fit the case.

In the earlier debate, and I was listening to my colleague from Massachusetts (Mr. FRANK) in the debate with the gentleman from South Carolina (Mr. GRAHAM), if there are prosecutors or police across this Nation that are not aggressively enforcing existing law, then we should focus there, and yet I believe that as the gentleman from Arkansas (Mr. HUTCHINSON) mentioned, we are attempting in essence to criminalize abhorrent but lawful thought, and I think that is a step too far, especially having been one who served in State courts in Missouri.

I think, Mr. Speaker, when I reference the criminal justice system and conjure up the image of all of those cases that I had the opportunity to participate in, I think of the Goddess of Justice. There is a statue just across the street depicting the Goddess of Justice and she stands there with scales in one hand and blindfold across her eyes, and I think the thought and the symbolism is that decisions that are made in our courtroom should be made not based on prejudice or not elevating one group over another, but should be applied consistently, and because of that, then I ask for a no vote on Mr. Conyers' motion.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, first, I want to congratulate the gentleman from Arkansas (Mr. HULSHOF) and, finally, finding someone to come, give him a little relief. He was

looking awfully lonely. The relief falls a little short.

First, the gentleman from Missouri said, we are criminalizing abhorrent thought, no not anything in here comes remotely close to criminalizing thought, nothing is criminal under this bill, unless you hit somebody, shot somebody, stabbed somebody, there is nothing in this bill that criminalizes thought, the right to burn crosses and engage in hate speech, first amendment protected, remains totally undiminished.

Secondly, the gentleman said, I mentioned places where there are prosecutors and police who are not fully enforcing the law, fortunately a small minority against particular groups, and he says focus on them. Kill this bill and you cannot focus on them. That is what the bill does.

This bill does not generalize a Federal criminal presence. It gives the Attorney General the right in a restricted set of circumstances to enter into prosecutions, and we envision the circumstance would be where a vulnerable group was being victimized and was not getting the protection. So without this legislation, we cannot do what the gentleman from Missouri says we should do, focus on those situations.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Missouri (Mr. CONYERS) for yielding me the time and thank him for offering this motion to instruct conferees.

By doing so, under his leadership, he gives this body today a great opportunity, an opportunity to say that hate crimes have no place in our country. The gentleman from Missouri (Mr. HULSHOF) argued that there is no need for a Federal hate crimes legislation, because assault and murder are already crimes.

However, the brutality of these hate crimes speaks to the reality that whether a person is targeted for violence, because of his or her sexual orientation, race or other group membership, the assailant intends to send a message to all members of that community. The message is, you are not welcome.

The effort to create an atmosphere of fear and intimidation is a different type of crime, and it demands a different kind of response. All Americans, all Americans have a right to feel safe in their communities.

This bill counters this message of intimidation. This motion to instruct sends a strong statement that our society does not condone and will not tolerate hate-based crimes. Passage of this motion to instruct would not end hate-based violence, we know that, but it would allow the Federal Government to respond and take action.

Mr. Speaker, I urge my colleagues to vote yes on the motion to instruct. It is necessary, Mr. Speaker, because these tragic murders and the sufferings

that were, for example, experienced by the Byrd family and the family of Matthew Shephard have experienced are not isolated incidences.

According to the FBI, 87 incidences of hate crimes based on race, religion, national origin or sexual orientation took place in 1996 alone. There is a need for this. I urge my colleagues to support the motion to instruct.

Mr. Speaker, in recent years we have mourned the deaths of Matthew Sheppard, a gay college student in Wyoming, and James Byrd, an African-American man in Texas. These brutal killings are reminders of the violence and harassment that millions of Americans are subjected to simply because of their sexual orientation, race, religion, or other group membership.

I had the privilege of introducing members of each of their families at the Democratic National Convention last month. There they spoke movingly of their slain loved ones and the impact that crimes motivated by hate have on families and communities.

These tragic murders and the suffering that these two families have experienced are, unfortunately, not isolated incidents. According to statistics kept by the National Coalition of Anti-Violence programs, 29 Americans were murdered in 1999 because they were gay or lesbian and there were more than 1,960 reports of anti-gay or lesbian incidents in the United States, including 704 assaults. And according to the Federal Bureau of Investigation, in 1966 there were over 8700 reported incidents of hate crimes based on race, religion, national origin, or sexual orientation. Crimes based on hate are an assault on all of us, and we must take stronger measures to prevent and punish these offenses.

Opponents of this measure have argued that this is an issue that should be left to the states. However, Congress has passed over 3000 criminal statutes addressing harmful behaviors that affect the Nation's interests, including organized crime, terrorism, and civil rights, violations. Thirty-Five of these laws have been passed since the Republicans took control of Congress in 1995.

Others have argued that there is no need for federal Hate Crimes legislation because assault and murder are already crimes. However, the brutality of these crimes speaks to the reality that when a person is targeted for violence because of their sexual orientation, race, or other group membership, the assailant intends to send a message to all members of that community. That message is you are not welcome.

The effort to create an atmosphere of fear and intimidation is a different type of crime, and it demands a different kind of response. All Americans have a right to feel safe in their community.

The Local Law Enforcement Enhancement Act of 2000 counters this message of intimidation with a strong statement that our society does not condone and will not tolerate hate-based violence. In addition, passage of this legislation will increase public education and awareness, increase the number of victims who come forward to report hate crimes, and increase reporting by local law enforcement to the FBI under the Hate Crimes Statistics Act.

In addition to a bipartisan group of 192 House sponsors, this bill is supported by 175 civil rights, religious, civic and law enforce-

ment organizations, including the National Sheriff's Association, the Federal Law Enforcement Officers Association, the Hispanic National Law Enforcement Association, the National Center for Women and Policing, and the National Organization of Black Law Enforcement Executives.

Hate crimes take many forms and affect many different kinds of victims. As a Member of Congress who has the privilege of representing a district with a large number of gay and lesbian people, I find it interesting when I hear people talk about tolerance for gay and lesbian people because in our community the issue of tolerance was resolved long ago. We not only tolerate our gay and lesbian friends and neighbors, we take great pride in them and in the contribution that they make to our community in San Francisco, indeed to our great country.

Murders and assaults that target African-Americans, Jewish-Americans, Hispanics, Gays and Lesbians, or any other group are the manifestation of enduring bigotry that is still all too prevalent in our society. Passage of this bill would not end all violence against these communities. But it would allow the Federal Government to respond and take action by investigating and punishing the perpetrators of crimes motivated by hate. I urge my colleagues to vote yes on the motion to instruct.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS), the deputy whip on the minority side.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from Missouri (Mr. CONYERS) for yielding the time to me.

Mr. Speaker, I rise in support of the motion to instruct conferees. Hate is hate. Hate is hate. It is based on race, on color, on religion, national origin or sexual orientation. No one, but no one is born hating. Little babies do not know hate.

They do not know sexism. They do not know racism, but our society will change the little babies before they become adults. We teach people how to hate, to hate someone because of their color, because of their race, because of their religion, because of their sex or sexual orientation.

As I said before, nobody, Mr. Speaker, is born hating, but too many people in our society grew up hating, and they get involved in hate crime against someone because of their religion, because of their color, because of their sex or sexual orientation. There is no room in our society to hate or be violent towards someone because of their race, their color, their national origin, their religion or sexual orientation.

With this legislation, Mr. Speaker, we will send a strong and powerful message that we are one family, one people, one Nation. I urge all of my colleagues to support the motion to instruct conferees.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I want to return to the allegation that this criminalizes thought.

Here is the operative phrase which controls any new crime, whoever willfully causes bodily injury to any person or through the use of fire, a firearm or an explosive or incendiary device attempts to cause bodily injury to any person.

Absent that phrase, there is no crime committed, so this only applies by its explicit language to actual injury or attempts to injure with a fire or firearm or an explosive or incendiary device.

Mr. HUTCHINSON. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri (Mr. HULSHOF).

Mr. HULSHOF. Mr. Speaker, my response to the gentleman from Massachusetts (Mr. FRANK) would be that if the bias of an accused defendant is made relevant then would not the gentleman agree that any statements, any writings, any thoughts, any spray painted slurs, any of these constitutionally protected, although abhorrent statements, would then be part of the criminalization of the act?

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, there has to be a prior physical criminal assault on someone else. Then when you get to the sentencing and you get to the decision about punishment, you can take into account motive. Yes, I would agree with the gentleman, you can take into account motive and motives that are sometimes constitutional when they are part of a crime can be punished.

□ 1545

Mr. HUTCHINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if the ranking member is prepared to close, I will go ahead and finish as our final speaker.

Mr. Speaker, I wanted to come back to this debate; and, again, in listening to some of the arguments that have been made, I noticed that the gentleman from Michigan (Mr. CONYERS) referred to the police chief in Laramie, Wyoming, who supports this legislation. In fact, the police chief of Laramie, Wyoming, was concerned about the burden on the State as to how much it costs in the prosecution. He needed financial help. It was not a matter that the case was not adequately investigated or prosecuted, because, again, a life sentence was meted out. It is the burden on the States because of these prosecutions in hate crimes.

Again, this is a Department of Defense authorization bill. This is in conference on a Kennedy amendment that has not been considered in this body. The question is, when there is the Senator Hatch proposal that would provide grants to the States that would address the concern of the police chief of Laramie, Wyoming, perhaps that is the best way to go.

What is missing in this debate is the answer to the two questions that I

raised: Is it constitutional, and is it necessary? I listened to every speaker on this side, and I did not see a recitation of where the constitutional basis is and how we respond to the Supreme Court when they cautioned this body in saying that every crime cannot be a Federal crime. Again, quoting the Supreme Court: "Indeed, we can think of no better example of the police power which the Founders denied the national government and reposed in the states than the suppression of violent crime and vindication of its victims." So I do not believe that has been answered. Where is the constitutional basis?

The second question that I raised is, Is it necessary? Not one case has been cited by my friends from the other side of the aisle in which there was a hate crime in the States that was not investigated and not prosecuted. No case has been cited.

Now, the gentleman from Massachusetts (Mr. DELAHUNT) referred to a couple of cases in which there is a need because there was a hate crime. Well, the end of the story is that the States prosecuted, they got the life sentence, they got a death sentence. Every witness, every witness that was called in support of hate crimes legislation before the Senate committee or the House committee, were victims or family members of a victim of a hate crime. It has been vindicated with the maximum penalty of the prosecution under State law.

So for this massive expansion of Federal jurisdiction, is it a constitutional basis? Is it necessary? I appreciate the frankness of the gentleman from Virginia (Mr. SCOTT), the ranking member on the Subcommittee on Crime. I was aware of the letter that the gentleman wrote to the gentleman from Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime, in which he expressed concern from a constitutional standpoint about the issues that were debated by the gentleman from Missouri, about whether this is going to require evidence of membership, because you have to prove the motivation being a hate crime against a particular group. So the issue will be membership in organizations.

There is a question that has been raised by civil libertarians about that, and also some other questions raised, and ultimately they asked for more hearings. In other words, let us proceed through. Now that we have the support of the chairman of the Subcommittee on Crime, surely we can consider this legislation, consider the amendment, consider what is the best approach, rather than requiring our conferees on a defense authorization bill, where they do not have the expertise of the Committee on the Judiciary to debate this issue. That is simply what I am asking my colleagues.

We are in great agreement that this is intolerable, targeting particular groups in our society. We are in agreement on that. It is simply a question of

what is the right approach. I believe the right approach is not directing our conferees to adopt a particular approach on the defense authorization bill. I ask my colleagues to oppose this motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to thank all of the Members that have participated in this debate, and particularly the floor manager, the gentleman from Arkansas (Mr. HUTCHINSON). I think we have been exhaustive on this subject and have moved in a very important way.

The reason this debate has been as long as it has is because we have had one motion to instruct, the Graham motion, which was turned away, and now we have mine, which I hope will be accepted.

The reason is that it is unrefuted that many of the crimes with which we are concerned are never prosecuted. Sometimes it is because the State and local authorities do not have the resources, but other times it is because they do not have the will. But the bottom line is that these crimes often go unpunished. Today we are asking our colleagues to go on record as to whether or not they will support a Federal law to ensure that these crimes be prosecuted, but only when the State legal system breaks down. Many State officials have asked for Federal legislation so that they can get help from Federal authorities in handling these crimes because of the complexity of the cases and because many of the purveyors of hate operate across State lines.

Many of us in the House have already been on record supporting Federal criminal laws that are based on discriminatory acts. My earlier bill of several years ago, the Church Arson Act, is just the most recent instance of what Members in this House have already voted for. This measure soon to come up, the hate crimes bill from the Senate, follows that same pattern.

Mr. Speaker, with the equal protection promise of the reconstruction amendments in the 19th century, the Federal Government assumed the duty to ensure that all Americans are protected from violence aimed at them simply because of who they are or how they lead their lives. So this is not a usurpation of State authority. It is a backstop, and when the State system does not work, that is when this hate crimes law would kick in.

Mr. Speaker, it is consistent with the rich civil rights tradition that goes all the way back to the 1930s when the late Dr. W.E.B. duBois and Ida B. Wells, an African American civil rights fighter before her time, supported the NAACP anti-lynching laws, which have now been extended through the Hate Crimes Act. We studied the 1938 Senate filibuster on anti-lynch laws which went down. It was defeated in the face of many of the same arguments that are

being made today by opponents of this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

POINT OF ORDER

Mr. HUTCHINSON. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state his point of order.

Mr. HUTCHINSON. Mr. Speaker, it was my understanding that we would close, so I closed. It was my understanding that the gentleman from Michigan (Mr. CONYERS) was going to close on behalf of his position.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, I was yielding pursuant to a request to yield. If it is the gentleman's insistence, though, that I do not do it, I withdraw it.

Mr. HUTCHINSON. Mr. Speaker, if it is for a unanimous consent request for submitting a statement, there is certainly no objection.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding.

First, the gentleman made a very important point, and I do have a unanimous consent request. I am sorry that the gentleman from Arkansas wants to narrow the debate and not allow us to yield. But I would ask unanimous consent for this Congress to do the right thing and to support the motion to instruct by the gentleman from Michigan (Mr. CONYERS) so that we can have a Federal backstop to stop the killing and to stop the hate.

Mr. CONYERS. Mr. Speaker, reclaiming my time, this measure continues the great struggle for equal justice of all Americans that started in the 1930s with the anti-lynch laws. It has been refined, it has been expanded, it has had a constitutional basis that has been very deeply rooted, and I urge and thank all of the Members who will support this motion to instruct.

Mr. POMEROY. Mr. Speaker, I rise in support of the Conyers motion to instruct conferees on the Defense Authorization bill. This motion would direct conferees to agree to the federal hate crimes provision contained in the Senate version of this bill. This provision preserves the principle of federalism while recognizing the national imperative to prevent violent crimes motivated by prejudice.

The Hate Crimes Prevention Act (HCPA) would provide new protections for individuals who are victims of violent crimes solely because of who they are. Specifically, it would strengthen the existing definition of a federal hate crime to include crimes motivated by the victim's gender, sexual orientation, or disability. I believe that this legislation would increase public education and awareness of these crimes, encourage more victims to come

forward and seek justice, and perhaps most importantly, demonstrate the federal government's clear resolve to prosecute these crimes to the fullest extent of the law.

Some of my colleagues have argued that federal hate crimes legislation is unnecessary. In making this argument, they cite the case of Matthew Shepard, a college student brutally murdered in Laramie, Wyoming. They state that justice has already been served; Matthew Shepard's killer has already been sentenced to life in prison without parole. What they don't tell you is that because Matthew Shepard's murder is not considered a federal hate crime, Laramie law enforcement officials had to furlough five officials to help cover the cost of prosecuting this crime. Under HCPA, by contrast, Matthew Shepard's grieving family would have had the benefit of additional resources under federal law, easing the burden on local law enforcement officials.

Mr. Speaker, by voting in favor of this motion to instruct conferees, we have the opportunity to provide all Americans with additional protection from violent crimes. The vast majority of hate crimes will still be prosecuted in state court. The federal Hate Crimes Prevention Act provides important protections to victims of violence, protections that supplement, not supplant, those available to victims in state courts. I urge my colleagues to support the Conyers motion.

Ms. SCHAKOWSKY. Mr. Speaker, I am proud today to stand with so many of my colleagues to urge support for comprehensive hate crimes legislation. I would also like to thank Mr. CONYERS for his outstanding leadership in this area. His unwavering support and dedication to advancing civil rights has been a beacon for us all.

I hope my granddaughters Isabel and Eve never know of violence motivated by bigotry and hate. Today we have the opportunity to strengthen our hate crimes prevention law by expanding the definition of a "hate crime" to include sexual orientation, as well as gender and disability. These crimes tear at the fabric of our society and insidiously erode our principles of tolerance and diversity. Before this Congress adjourns for the year, we must send a loud message that the safety of all people is paramount and anyone who commits a crime based on bigotry and hate will be prosecuted to the fullest extent of the law.

I don't want to be the one to explain to Ricky Byrdson's widow that he did not deserve protection because he was killed walking outside of his house rather than while he was engaged in a "federally protected activity." And I don't want to be the person who has to explain to the family of Matthew Shepard why this Congress was unable to pass tougher laws that punish people who commit crimes based on sexual orientation. The Byrdson and Shepard families are not alone. For every high profile, heinous hate crime that makes it to the forefront of our national consciousness, hundreds and thousands of nameless victims and families have been targeted simply because of their gender, sexual orientation and disability.

Since 1991, 60,000 hate crimes have been reported to the FBI and in 1998 alone, there were close to 8,000 hate crimes reported, almost one every hour. Many argue that hate crimes cannot be separated from other crimes. This is just untrue. Hate crimes are violence targeted at individuals simply because of who

they are. Perpetrators are motivated by hate and their actions are intended to strike fear into an entire group of people. We know that individuals are targeted because of their sexuality, disability, and gender just as often as because of their race, religion, and national origin, and our hate crimes prevention legislation must be expanded to protect them too.

What is the lesson we are teaching our children and what legacy will I leave my granddaughters if we don't pass laws that protect all of our citizens? If we fail, we will be turning our backs on our citizens. Should we succeed, we will be sending a clear message to all that we will not tolerate bigotry and hate. We have a choice, Let us choose wisely.

Mr. WEXLER. Mr. Speaker, we are committed to defending this country against all enemies, foreign and domestic. We must ask the question, who or what is our enemy? What is the greatest threat to our democracy? Mr. Speaker, our domestic enemies are hatred and intolerance. And hate manifests itself in many ways. Hate can provoke terrorists to commit unconscionable acts against innocent victims. Hate can provoke rogue leaders to persecute and intimidate members of an ethnic or religious group. And hate can provoke fearful and desperate people to terrorize whole communities by committing hate crimes.

We must take action. We must protect our country against terrorist acts, we must protect ethnicities from genocide, and we must protect vulnerable communities from hate crimes. When a person terrorizes another, that person is guilty of a crime. When a person terrorizes a community, that person is guilty of a hate crime. Whether the community is a religious one, an ethnic one, or one of sexual orientation, it deserves protection.

The nation was shocked at the murders of Matthew Shepard and James Byrd, Jr., as well as the vile and senseless nature of the attitudes which prompted these crimes. Many more hate crimes occur throughout the country that do not receive the level of publicity of the Shepard and Byrd murders. We must work together to eliminate the underlying prejudices which kindle the hatred inherent in these crimes. We must also give our prosecutors the laws and resources they need to properly bring justice to the victims. Let me say again, hate crimes do not just victimize a person, they also terrorize a community. That is why they deserve recognition in the law for what they are—crimes that victimize a community.

We must also be cognizant of protecting all vulnerable groups. Gender, sexual orientation, and disability should be included along with race, color, religion, and national origin as human characteristics which are subject to hate crimes and attacks and should receive the same federal protections.

I ask that you support Congressman CONYERS' motion to instruct conferees to include the Hate Crimes Act in the Defense Authorization bill.

Mr. BARR of Georgia. Mr. Speaker, I stand before you today to oppose Representative CONYERS' motion to instruct which purports to include the Kennedy hate crime language in H.R. 4205.

So-called "hate crimes" legislation is discriminatory on its face. In a nutshell, such legislation treats crimes against certain classes of persons more severely than those same crimes if they were committed against another class of persons. This is clearly not "equal justice under the law."

All crimes are crimes of hate. Whenever a person harms another, there is hate. Should we enact federal legislation to punish hate directed towards one person more severely than hate directed against another, merely because of the victim's classification? I do not believe so.

Under our present laws, the killers of James Byrd and Matthew Shepard (crimes which would have fallen under the Kennedy hate crimes provision) were severely punished for their illegal and gruesome crimes. James Byrd's killer was sentenced to death, and Matthew Shepard's killer was sentenced to two life sentences without the possibility of parole. These and other heinous crimes are prosecuted, and the perpetrators punished; under existing laws. People who commit such crimes are not going unpunished. Current federal and state laws are effective, and they are being used. There is no void here that new, "hate" legislation is needed to fill. Moreover, the effect of this legislation, were it to be enacted, might have the opposite effect to that intended by its proponents. By making the prosecutor's job more complex, and forcing prosecutors to prove additional elements of a "hate" offense, and not defining adequately the terms in these laws, such prosecutions would be rendered more difficult than prosecutions under current laws.

However, this deficiency apparently won't slow down the political agenda at work here.

Including this bill in the Defense Reauthorization bill would clearly be putting the value of one life over and above another. Let us not send that type of signal to our citizens. All life is valuable and should be protected, equally.

Vote no on Representative JOHN CONYERS' motion to instruct.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUTCHINSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 232, nays 192, not voting 9, as follows:

[Roll No. 471]

YEAS—232

Abercrombie	Boswell	DeFazio
Ackerman	Boucher	DeGette
Allen	Brady (PA)	Delahunt
Andrews	Brown (FL)	DeLauro
Baca	Brown (OH)	Deutsch
Baird	Capps	Diaz-Balart
Baldacci	Capuano	Dicks
Baldwin	Cardin	Dingell
Barrett (WI)	Carson	Dixon
Bass	Castle	Doggett
Becerra	Clay	Dooley
Bentsen	Clayton	Doyle
Berkley	Clement	Edwards
Berman	Clyburn	English
Biggert	Condit	Etheridge
Bilbray	Conyers	Evans
Bishop	Costello	Farr
Blagojevich	Coyne	Fattah
Blumenauer	Crowley	Filner
Boehrlert	Cummings	Foley
Bonior	Danner	Forbes
Bono	Davis (FL)	Ford
Borski	Davis (IL)	Frank (MA)

Frelinghuysen	LoBiondo	Rodriguez
Frost	Lofgren	Roemer
Gallegly	Lowey	Ros-Lehtinen
Gedjenson	Luther	Rothman
Gephardt	Maloney (CT)	Roukema
Gibbons	Maloney (NY)	Roybal-Allard
Gillmor	Markley	Rush
Gilman	Mascara	Sabo
Gonzalez	Matsui	Sanchez
Gordon	McCarthy (MO)	Sanders
Green (TX)	McCarthy (NY)	Sandlin
Greenwood	McCollum	Sawyer
Gutierrez	McCrery	Saxton
Hall (OH)	McDermott	Schakowsky
Hastings (FL)	McGovern	Scott
Hill (IN)	McKinney	Serrano
Hilliard	McNulty	Shaw
Hinchee	Meehan	Shays
Hinojosa	Meek (FL)	Sherman
Hoeffel	Meeks (NY)	Shimkus
Holden	Menendez	Sisisky
Holt	Millender-McDonald	Skelton
Hooley	Miller, George	Slaughter
Horn	Minge	Smith (NJ)
Houghton	Mink	Smith (WA)
Hoyer	Moakley	Snyder
Inslee	Mollohan	Spratt
Jackson (IL)	Moore	Stabenow
Jackson-Lee (TX)	Moran (VA)	Stark
Jefferson	Morella	Strickland
Johnson (CT)	Murtha	Stupak
Johnson, E.B.	Nadler	Tauscher
Jones (OH)	Napolitano	Thompson (CA)
Kanjorski	Neal	Thompson (MS)
Kaptur	Oberstar	Thurman
Kelly	Obey	Tierney
Kennedy	Olver	Towns
Kildee	Ortiz	Turner
Kilpatrick	Owens	Udall (CO)
Kind (WI)	Pallone	Udall (NM)
Klecza	Pascarella	Upton
Kolbe	Pastor	Velazquez
Kucinich	Payne	Visclosky
Kuykendall	Pelosi	Walsh
LaFalce	Pickett	Waters
LaHood	Pomeroy	Watt (NC)
Lampson	Porter	Waxman
Lantos	Price (NC)	Weiner
Larson	Quinn	Weller
LaTourette	Rahall	Wexler
Leach	Rangel	Weygant
Lee	Regula	Wise
Levin	Reyes	Woolsey
Lewis (GA)	Rivers	Wu
		Wynn

NAYS—192

Aderholt	Cunningham	Hutchinson
Archer	Davis (VA)	Hyde
Armey	Deal	Isakson
Bachus	DeLay	Istook
Baker	DeMint	Jenkins
Ballenger	Dickey	John
Barcia	Doolittle	Johnson, Sam
Barr	Dreier	Jones (NC)
Barrett (NE)	Duncan	Kasich
Bartlett	Dunn	King (NY)
Barton	Ehlers	Kingston
Bereuter	Ehrlich	Knollenberg
Berry	Emerson	Largent
Bilirakis	Everett	Latham
Bliley	Ewing	Lewis (CA)
Blunt	Fletcher	Lewis (KY)
Boehner	Fossella	Linder
Bonilla	Fowler	Lipinski
Boyd	Ganske	Lucas (KY)
Brady (TX)	Gekas	Lucas (OK)
Bryant	Goode	Manzullo
Burr	Goodlatte	Martinez
Burton	Goodling	McHugh
Buyer	Goss	McInnis
Callahan	Graham	McIntosh
Calvert	Granger	McIntyre
Camp	Green (WI)	McKeon
Candady	Gutknecht	Metcalfe
Cannon	Hall (TX)	Mica
Chabot	Hansen	Miller (FL)
Chambliss	Hastings (WA)	Miller, Gary
Chenoweth-Hage	Hayes	Moran (KS)
Coble	Hayworth	Myrick
Coburn	Hefley	Nethercutt
Collins	Herger	Ney
Combest	Hill (MT)	Northup
Cook	Hilleary	Norwood
Cooksey	Hobson	Nussle
Cox	Hoekstra	Ose
Cramer	Hostettler	Oxley
Crane	Hulshof	Packard
Cubin	Hunter	Paul

Pease	Schaffer	Taylor (MS)
Peterson (MN)	Sensenbrenner	Taylor (NC)
Peterson (PA)	Sessions	Terry
Petri	Shadegg	Thomas
Phelps	Sherwood	Thornberry
Pickering	Shows	Thune
Pitts	Shuster	Tiahrt
Pombo	Simpson	Toomey
Portman	Skeen	Trafigant
Pryce (OH)	Smith (MI)	Vitter
Radanovich	Smith (TX)	Walden
Ramstad	Souder	Wamp
Riley	Spence	Watkins
Rogan	Stearns	Watts (OK)
Rogers	Stenholm	Weldon (FL)
Rohrabacher	Stump	Weldon (PA)
Royce	Sununu	Whitfield
Ryan (WI)	Sweeney	Wicker
Ryun (KS)	Talent	Wilson
Salmon	Tancredo	Wolf
Sanford	Tanner	Young (AK)
Scarborough	Tauzin	Young (FL)

NOT VOTING—9

Campbell	Franks (NJ)	Lazio
Engel	Gilchrest	Reynolds
Eshoo	Klink	Vento

□ 1631

Mr. BLILEY changed his vote from "yea" to "nay."

Mr. CLYBURN changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. CAMPBELL. Mr. Speaker, I regret that I was not present for rollcall vote No. 471 because I was unavoidably detained. Had I been present, I would have voted "no."

COMMUNICATION FROM THE HONORABLE MATTHEW G. MARTINEZ, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. SIMPSON) laid before the House the following communication from the Honorable MATTHEW G. MARTINEZ, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 2000.

Hon. JEFF TRANDAH, Clerk, U.S. House of Representatives, H-154, Capitol, Washington, DC.

DEAR MR. TRANDAH: Effective July 26, 2000, please change my party designation on your official records and databases to "REPUBLICAN."

Your assistance is appreciated.

Sincerely,

MATTHEW G. MARTINEZ,
Member of Congress.

COMMUNICATION FROM THE HONORABLE MARTIN FROST, CHAIRMAN, DEMOCRATIC CAUCUS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MARTIN FROST, Chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
September 13, 2000.

Hon. DENNIS HASTERT, Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you that the Honorable Matthew Martinez of